ORDER
OF
PROTECTION

LAET

Legal Aid Of
East Tennessee

JUSTICE FOR ALL

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Serving Bledsoe, Bradley, Blount, Carter, Cocke, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Polk, Rhea, Sequatchie, Sevier, Sullivan, Unicoi and Washington Counties.

WHAT IS AN ORDER OF PROTECTION?

A court order signed by the judge, that is meant to protect persons from abuse or threats of abuse, of sexual assault or stalking. This Order allows law enforcement the right to arrest your abuser without a warrant if necessary. At the final hearing, the Order may also:

- order the abuser to leave the home or to provide you with another home
- award temporary custody of the children
- award temporary spousal support for you or child support
- award specific, temporary visitation time for the abuser
- award pets to the victim
- order the abuser to attend counseling for domestic violence

WHO CAN GET AN ORDER OF PROTECTION?

Another that fits the following categories:

- current or former spouses
- anyone that has lived together, currently or in the past
- adults or minors who are dating or have dated or had a sexual relationship
- anyone related by blood or adoption
- anyone related or formerly related by marriage
- sexual assault victims—no relationship necessary—if raped or placed in fear of sexual assault due to threats

HOW DO I GET AN ORDER OF PROTECTION?

You must file for the order of protection at the court clerk's office in the county where the abuse happened or the county where your abuser lives. You must fill out forms you get from the clerk and include:

- date of the abuse, sexual assault/rape, or stalking
- where the abuse happened
- give specific details of why you are in fear and how you were hurt; examples
  - <u>pushed or shoved me</u> (into a wall, to the floor, etc.)
  - <u>hit me with</u> (fist, a weapon, furniture, etc.)
  - <u>choked me</u> (hands, rope, cord, etc.)
  - <u>wouldn't let me leave</u> (blocked the door, took my keys, etc.)
  - <u>threatened me</u> (gun, knife, hammer, fleeing with the children, etc.)
- if you called the police and if the abuser was arrested
- if you had medical treatment

Return the completed forms to the clerk and sign your name in front of the clerk. The clerk **cannot charge you** a fee to file for the Order of Protection.

WHAT HAPPENS NEXT?

- the clerk will have the Judge review your paperwork and may sign an Ex Parte Order that acts as a temporary order until your court date when the Judge will have a hearing about whether to give you Final Order. Until then, the Ex Parte Order is to keep your abuser away from you
- the Ex Parte Order may have your court date listed on it; if not call the court clerk
- you must get a copy of the Ex Parte Order and your petition and keep with you at all times
- if you are not given an Ex Parte Order, you still have the right to a hearing to get the Order of Protection
- you must attend your hearing. This is usually about 15 days from when you filed

It is important to know that your Ex Parte Order is **not a custody order**. This decision may be addressed at the final hearing.

HOW TO STAY SAFE UNTIL YOUR HEARING!

If you do not feel safe staying in your home, you should find safety with:

- a trusted friend
- a relative
- a shelter
- develop a safety plan (contact your local shelter, National Domestic Violence Hotline at 1-800-799-SAFE, or a Legal Aid Office year you)

A safety plan is an action you will take if you are at risk of further abuse. Below are a few samples of what you can do:

- **have your Ex Parte Order and cell phone with you at all times and call 911**
- if the abuser knocks on your door or breaks into your home, CALL 911 and stay on the phone with the operator until help arrives
- have the police escort you to a safe place
- if the abuser is following or stalking you, CALL 911 and stay on the phone with the operator until help arrives
- change the locks on your home or car
- park your car so abuser does not have access to it
- if the abuser harasses you at work
    - have co-worker intercept calls so you have a witness
    - never walk to your car alone
- if the abuser calls repeatedly
    - **keep all phone messages or text messages or letters**
    - hang up immediately if the call is from the abuser
- keep a journal of what happens from the date you file your petition until your court date
- if you know your abuser has been served with the Ex Parte Order, any contact can be considered a violation
- contact your local shelter or Legal Aid office for advise on filing a violation of the Ex Parte Order or if you need representation for the hearing

HOW TO PREPARE FOR THE HEARING

It is important that you appear at your court hearing and bring the following with you:

- any **witnesses** that saw the abuse
- any **police reports** relating to the abuse incident
- any **medical reports** of your injuries
- any **pictures** of your injuries or damages to your personal property
- any **receipts** for damage to your property or medical expenses

COURT DAY

- make arrangements prior to court for child care or after school care—it will be a long day
- reschedule other appointments or work commitments-you may be there all day
- **arrive on time**
- casual dress is allowed but shorts and midriff tops are not allowed
- determine which courtroom you need to be in by asking the court clerk
- have patience-your case will probably not be first
- if your abuser is harassing you or stalking you at court, notify an officer or court clerk
- if you are not represented by an attorney
    - you must be prepared to tell the judge what the abuser did to you
    - show any police or medical reports and any pictures relating to the abuse incident
    - you must tell the judge what you want:
        - custody of the children
        - child support
        - specific visitation for the other party
        - exclusive use of the residence
        - the car returned to you
        - that you want the abuser to attend counseling about domestic violence

that the abuser have a drug and alcohol assessment

VIOLATIONS OF A COURT ORDER MEANS ANOTHER COURT DATE

The abuser cannot be punished by the Judge if you do not inform the court by filing a contempt form. To do this, you follow the same process that you did when filing for the Order of Protection (the paperwork is different and you must tell the court that the Order was violated). Please remember that you must have <u>proof</u> of the violation in court for the Judge to punish the abuser. This proof can be:

- a witness
- police report or your abusers arrest report
- voice mail recordings or text messages

A violation is punishable by up to 10 days in jail and a $50 fine for each violation proven. Just because your abuser is arrested for being around you, does not mean that a violation has been filed, that doesn't happen until you tell the judge by filing a violation petition.

If there has been a violation of your Order of Protection, you may want to hire an attorney or contact your local Legal Aid Office for representation.

SHELTERS

Abuse Alternatives, Bristol	**423-764-2287**
CEASE, Hamblen County	**423-586-0692**
CHIPS, Unicoi, Carter & Greene Counties	**423-743-0022**
Family Crisis Center, Knox County	**865-637-8000**
Haven House, Blount County	**865-982-1087**
Harbor Safe House, Bradley and Polk County	**423-476-3886**
Iva's Place, Loudon County	**865-988-7867**
Safe House, Sullivan County and Kingsport	**423-246-2273**
Safe Haven, Johnson County	**423-727-1914**
Safe Passage, Washington County	**423-232-8920**
Safe Space, Sevier County	**800-244-5968**
Serenity Shelter, Knox County	**865-673-6551**
H.O.P.E. Center, McMinn and Meigs County	**423-745-5289**
Salvation Army, Knox County	**865-525-9401**
Shepherd's Inn, Carter County	**423-542-0180**
Safe Haven Sexual Assault-Upper East Tennessee, Knox, Blount, Loudon and Sevier Counties	**865-522-7273**
Partnership for Families, Children and Adults, Hamilton County	**423-755-2700**

OFFICE HOURS AND LOCATION

Legal Aid of East Tennessee offices are
open from 8:30 A.M. to 5:00 P.M.
Monday through Friday.

Executive Director, David Yoder
(865)637-0484

Associate Director - Eric Miller

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Maryville, TN 37801
(865)981-1818
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Knoxville, TN 37914
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Associate Director - Russell Fowler

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No person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.

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Tennessee Bar Foundation

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